

Remarks

As stated above, Applicants appreciate the Examiner's thorough examination of the subject application and request reexamination and reconsideration of the subject application in view of the following remarks.

As of the instant action claims 14-36 were pending. Applicants have amended independent claims 14, 27, and 34. Applicants respectfully submit that no new matter is believed to have been added as a result of these amendments.

Claim Rejections - 35 USC § 112

Claims 14-36 were rejected under 35 USC §112, second paragraph, because each of independent claims 14, 27, and 34 recited a pair of side bars mounted at the ends of the crossbar and "projecting forwardly therefrom" The Examiner found it unclear as to what direction "forwardly" refers. Independent claims 14, 27 and 34 have been amended to recite the feature of "...the forklift truck comprising a u-shaped chassis having a crossbar and a pair of side bars mounted at the ends of the crossbar and projecting forwardly therefrom in the longitudinal direction of the truck...". The applicant submits that the above amendment renders claims 14, 27 and 34 clear and respectfully requests withdrawal of the rejection under 35 USC § 112.

Claim Rejections – 35 USC § 103

Claims 14, 18, 21, and 22 were rejected under 35 USC §103(a) as being obvious over the combination of Brunner et al. (US6,079,935, hereinafter "Brunner"), and Weinert et al. (US5,096,363, hereinafter "Weinert"). Applicants strongly disagree with this view and submit that one having skill in the art would not be led to arrive at the invention by combining the teachings of Brunner and Weinert for the reasons that follow.

First, Applicants respectfully note that nowhere in Weinert is there shown a side shift mechanism with means to shift the moveable carriage laterally relative the fixed carriage comprising a pair of fluid actuated rams. On the contrary, Weinert is understood to show a side shift mechanism comprising a single ram.

According to the subject application, a side shift mechanism is one which moves a moveable carriage relative to a fixed carriage. The moveable carriage carries forks and the fixed carriage is mounted on the mast. Weinert is understood to describe such a side

shift mechanism on Column 3 lines 21 to 33 inclusive. Weinert describes a load carriage 12 (fixed carriage) mounted on a mast and a fork supporting frame 18 (moveable carriage) slidably mounted on the load carriage 12. The fork supporting frame 18 (moveable carriage) is moved relative to the load carriage 12 (fixed carriage) by way of a side-shifting hydraulic piston and cylinder assembly 20 interacting between the frame 18 and the carriage 12. The hydraulic piston and cylinder assembly 20 consists of a single ram which causes the moveable carriage 18 to slide transversely relative to the fixed carriage 12. Nowhere in Weinert is it suggested to provide a side shift mechanism within the meaning of the present invention with a pair of fluid actuated rams arranged in the manner according to the application in suit.

In addition to the above, and for reasons of completeness, Applicants further submit that it is clear from Weinert that the ram 64 is not part of the side shift mechanism within the meaning of the subject application as operation of the ram 64 does not cause the fork supporting frame 18 (moveable carriage) to move relative to the load carriage 12 (fixed carriage). Instead, operation of the ram 64 is understood to cause a fork 54 to move relative to the fork supporting frame 18 (moveable carriage).

Second, nowhere in Weinert is there shown a side shift mechanism with a pair of fluid actuated rams with their cylinders connected together side by side. Weinert is only understood to show a single ram used to shift the moveable carriage relative the fixed carriage. Other rams are shown for other purposes (e.g. fork positioning), however these are still not connected side by side with another ram.

Weinert does not describe a side shift mechanism with a pair of fluid actuated rams with cylinders connected together side by side. It has been shown above that the side shift mechanism of Weinert only comprises a single ram. However, the Examiner has argued that rams 20 and 64 form part of a side shift mechanism. Although Applicants reject the suggestion that the ram 64 forms part of a side shift mechanism within the meaning of the subject application, it is in any event clear from the drawings and description of Weinert that the cylinders of rams 20 and 64 are not connected together side by side. Figures 1 to 4 of Weinert show a significant separation between the cylinder of ram 20 and the cylinder of ram 64. Accordingly, the rams are not connected together side by side.

Furthermore, and for reasons of completeness, Applicants suggest that according to the arrangement described and shown in the drawings of Weinert, a person skilled in the art would in no way be inclined to connect the cylinder of ram 20 to the cylinder of ram 64. To do so would prevent any side shift movement of the fork supporting frame 18 (moveable carriage) relative the load carriage 12 (fixed carriage) and would effectively secure the moveable carriage in a fixed position relative the fixed carriage. This is due to the fact that the cylinder of ram 64 is connected to the moveable frame 18 (Col 3 lines 60-61) and the cylinder of the ram 20 is connected to the fixed carriage 12 (Col 3 lines 29-31). If the two cylinders were connected together, that would effectively provide a rigid join between the moveable carriage and the fixed carriage which would prevent any side shift of the moveable carriage 18 relative to the fixed carriage 12.

Third, according to the Examiner's interpretation, with which Applicants strongly disagrees, the moveable carriage 18 is a fixed carriage, the fork 54 is a moveable carriage, and the rams 20 and 64 are used to move the moveable carriage (fork) 54 relative to the fixed carriage (moveable carriage) 18. This is simply not the case as ram 20 does not cause the fork 54 to move relative to the carriage 18.

It is clear from Weinert that part 54 is a fork (Col 3 line 58) and is not a moveable carriage within the meaning of the subject application, or indeed within the meaning of the Weinert specification. Furthermore, it is clear from Weinert that fork supporting frame 18 is a moveable carriage (Col 3 lines 21-33) and not a fixed carriage within the meaning of the subject application or indeed within the meaning of the Weinert specification. For those reasons, Applicants strongly disagrees with the Examiners interpretation of the teaching of Weinert. However, for the purposes of this argument only, Applicants will use the same interpretation as used by the Examiner to illustrate how even using such an interpretation would not render the claim obvious.

Most importantly, the Examiner has argued that both of the rams 20 and 64 cause the moveable carriage (the fork) 54 to move relative to the fixed carriage (the moveable carriage) 18. Applicants respectfully submit that this is believed to be incorrect. Ram 64 is understood to cause the moveable carriage 54 to move relative to the fixed carriage 18. Ram 20 on the other hand does not cause the moveable carriage 54 to move relative to the fixed carriage 18 as suggested by the Examiner. Instead, as it is understood, ram 20 is used to move the fixed carriage 18 relative to the load carriage 12. As the moveable

carriage 54 is mounted on the fixed carriage 18, operation of the ram 20 will cause the moveable carriage 54 and the fixed carriage 18 to move together in unison relative the load carriage 12. Accordingly, there is no relative movement of the moveable carriage (fork) 54 relative the fixed carriage (moveable carriage) 18 caused by ram 20.

In conclusion, for the foregoing reasons, Applicants respectfully submit that a person of ordinary skill in the art, when combining the teachings of Brunner and Weinert, would not be inclined to arrive at the subject matter of independent claim 14 and independent claim 14 is therefore new and non-obvious in light of the prior art on record. Claims 18, 21, and 22 ultimately depend upon claim 14, and are similarly believed to be allowable over the cited references. Withdrawal of this rejection is, accordingly, respectfully requested.

Claims 23 and 25 were rejected under 35 USC §103(a) as being obvious over Brunner in view of Weinert. As claims 23 and 25 ultimately depend upon independent claim 14, Applicants respectfully submit that claims 23 and 25 are allowable for the reasons discussed above.

Claim 26 was also rejected under 35 USC §103(a) as being obvious over Brunner in view of Weinert. Claim 26 ultimately depends upon independent claim 14, and is therefore allowable for the reasons discussed above.

Claim 15 was rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Schuster (US 4,095,714). Applicants respectfully submit that Schuster is not understood, and has not been asserted, to remedy the above discussed deficiencies of Brunner and Weinert as applied to independent claim 14, upon which claim 15 ultimately depends. As such, Applicants respectfully submit that independent claim 14, and claim 15 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claim 16 was rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Sewell (US 4,615,533). Applicants respectfully submit that Sewell is not understood, and has not been asserted, to remedy the above-discussed

deficiencies of Brunner and Weinert with respect to independent claim 14, upon which claim 16 ultimately depends. As such, Applicants respectfully submit that independent claim 14, as well as claim 16 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claim 17 was rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Meitl (US 3,999,674). Applicants respectfully submit that Meitl is not understood, and has not been asserted, to remedy the above-discussed deficiencies of Brunner and Weinert with respect to independent claim 14, upon which claim 17 ultimately depends. As such, Applicants respectfully submit that independent claim 14, and claim 17 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claim 19 was rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Kuwayama et al. (US 5,277,268). Applicants respectfully submit that Kuwayama et al. is not understood, and has not been asserted, to remedy the above discussed deficiencies of Brunner and Weinert with respect to independent claim 14, upon which claim 19 ultimately depends. As such, Applicants respectfully submit that independent claim 14, and claim 19 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claim 20 was rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Field, Jr. (US 5,088,880, hereinafter "Field"). Applicants respectfully submit that Field is not understood, and has not been asserted, to remedy the deficiencies of Brunner and Weinert with respect to independent claim 14, upon which claim 20 ultimately depends. As such, Applicants respectfully submit that claim 14, as well as claim 20 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claim 24 was rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Avitan et al. (US 5,890,563). Applicants respectfully submit that Avitan et al. is not understood, and has not been asserted, to remedy the

deficiencies of Brunner and Weinert with respect to independent claim 14, upon which claim 24 ultimately depends. As such, Applicants respectfully submit that claim 14, as will as claim 24 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claims 27 and 31-33 were rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Schuster (US 4,095,714, hereinafter "Schuster"). The above arguments relating to independent claim 14 apply mutatis mutandis to the objections raised against independent Claim 27. Further, Applicants respectfully submit that there is nothing in Schuster, when combined with the teachings of Brunner and Weinert, which would lead a person having ordinary skill in the art to arrive at the invention described in Claim 27.

Schuster is understood to disclose a single ram 50 for shifting the forks from side to side (Col 3 lines 16-20). Nowhere in Schuster is there disclosed a side shift mechanism comprising a fixed carriage and a moveable carriage slidably mounted on the fixed carriage and in which the means to move the moveable carriage relative to the fixed carriage comprises a pair of fluid actuated rams arranged in the manner claimed in claim 27. Accordingly, the applicant submits that Independent Claim 27 is new and non-obvious. Withdrawal of this rejection is respectfully requested.

Claim 28 was rejected under 35 USC §103(a) as being obvious over Brunner, Weinert, and Schuster and further in view of Sewell. Applicants respectfully submit that Sewell is not understood, and has not been asserted, to remedy the deficiencies of Brunner, Weinert, and Schuster with respect to independent claim 27, upon which claim 28 ultimately depends. As such, Applicants respectfully submit that claim 27, as will as claim 28 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claim 29 was rejected under 35 USC §103(a) as being obvious over Brunner, Weinert, and Schuster and further in view of Meitl. Applicants respectfully submit that Meitl is not understood, and has not been asserted, to remedy the deficiencies of Brunner, Weinert, and Schuster with respect to independent claim 27, upon which claim 29

ultimately depends. As such, Applicants respectfully submit that claim 27, as well as claim 29 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claim 30 was rejected under 35 USC §103(a) as being obvious over Brunner, Weinert, and Schuster and further in view of Field, Jr. Applicants respectfully submit that Field, Jr. is not understood, and has not been asserted, to remedy the deficiencies of Brunner, Weinert, and Schuster with respect to independent claim 27, upon which claim 30 ultimately depends. As such, Applicants respectfully submit that claim 27, as well as claim 30 depending thereupon, is allowable over the cited references. Withdrawal of this rejection is respectfully requested.

Claims 34-36 were rejected under 35 USC §103(a) as being obvious over Brunner and Weinert and further in view of Field, Jr. (US 5,088,880, hereinafter "Field"). The above arguments relating to independent claim 14 apply mutatis mutandis to the objections raised against independent Claim 34. Further, Applicants respectfully submit that there is nothing in Field, when combined with the teachings of Brunner and Weinert, that would lead a person having ordinary skill in the art to arrive at the invention described in Claim 34.

Field is understood to disclose an arrangement of carriage for a load handling vehicle that's intended purpose is to obviate the need for a side shift mechanism comprising a fixed carriage and a moveable carriage (Col 1 lines 26-61 and Col 5 lines 4-9) and is understood to do so with a carriage that is only able to move vertically on the mast (Col 4 line 67 – Col 5 line 1). This is contrary to the teachings of the application in suit. Nowhere in Field is there disclosed a side shift mechanism comprising a fixed carriage and a moveable carriage slidably mounted on the fixed carriage and in which the means to move the moveable carriage relative to the fixed carriage comprises a pair of fluid actuated rams arranged in the manner as claimed in claim 34. Accordingly, the applicant submits that Independent Claim 34 is new and non-obvious. Withdrawal of this rejection is respectfully requested.

As claims 35 and 36 are dependent directly on new and non-obvious independent claim 34, claims 35 and 36 are also deemed both new and non-obvious by virtue of their

dependency on a new and non-obvious independent claim. Withdrawal of this rejection is respectfully requested.

Having overcome all of the outstanding rejections, Applicants respectfully submit that the subject application is now in condition for allowance. Applicants believe that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

In light of the above-described remarks, Applicants respectfully assert that the subject application is in condition for allowance. While Applicants respectfully assert that the subject application is now in condition for allowance, the Examiner is invited to telephone Applicants' attorney (617-305-2010) to facilitate prosecution of this application. Please apply any charges or credits to deposit account 50-2324, referencing Docket No. 125590.000xx.

Respectfully submitted,

Dated: 16 March 2011

/Jeffrey T Placker/
Jeffrey T Placker
Reg. No. 47,862

Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116-3889
Telephone: 617-305-2010
Facsimile: 617-523-6850

#10183964_v1